

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

CHUKWUDI NJOKU)	
)	
Plaintiff,)	Case No. 4:15-cv-1772-RWS
)	
vs.)	
)	
ACCOUNT DISCOVERY SYSTEMS, LLC)	
)	
Defendant.)	

**DEFENDANT ACCOUNT DISCOVERY SYSTEMS, LLC’S ANSWER AND
AFFIRMATIVE DEFENSES TO PLAINTIFF’S PETITION FOR DAMAGES**

Defendant Account Discovery Systems, LLC (“Defendant”), by and through its attorneys, submits its Answer to Plaintiff’s Petition for Damages, on information and belief:

INTRODUCTION AND JURISDICTION

1. The allegations in Paragraph 1 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 1.

2. The allegations in Paragraph 2 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 2.

PARTIES

3. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 3, and therefore denies same.

4. Admitted in part and denied in part. Defendant admits that it is a New York limited liability company with a principal place of business in Amherst, New York. The balance of the allegations in Paragraph 4 constitute conclusions of law, to which no response is required.

To the extent that a response is required, Defendant denies each and every remaining allegation in Paragraph 4.

5. The allegations in Paragraph 5 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 5.

FACTS

6. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 6, and therefore denies same.

7. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 7, and therefore denies same.

8. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 8, and therefore denies same.

9. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 9, and therefore denies same.

10. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 10, and therefore denies same.

11. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 11, and therefore denies same.

12. Defendant denies each and every allegation in Paragraph 12.

13. Defendant denies each and every allegation in Paragraph 13.

14. Defendant denies each and every allegation in Paragraph 14.

15. Defendant denies each and every allegation in Paragraph 15.

16. Defendant denies each and every allegation in Paragraph 16.

17. Defendant denies each and every allegation in Paragraph 17.

18. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 18, and therefore denies same.

19. Defendant denies each and every allegation in Paragraph 19.

20. Defendant denies each and every allegation in Paragraph 20.

21. Defendant denies each and every allegation in Paragraph 21.

22. Defendant denies each and every allegation in Paragraph 22.

COUNT I: VIOLATION OF THE FDCA

23. With respect to Paragraph 23, Defendant repeats and realleges its answer to the allegations set forth in all of its responsive Paragraphs as if same were fully set forth at Paragraph 23.

24. Defendant denies each and every allegation in Paragraph 24, including all subparts.

FIRST AFFIRMATIVE DEFENSE

25. The Petition fails to state a claim upon which relief can be granted against the answering Defendant.

SECOND AFFIRMATIVE DEFENSE

26. Plaintiff failed to mitigate his damages.

THIRD AFFIRMATIVE DEFENSE

27. The claims alleged in the Petition are barred by the statute of limitations.

FOURTH AFFIRMATIVE DEFENSE

28. Plaintiff's damages, if any, are speculative.

FIFTH AFFIRMATIVE DEFENSE

29. Plaintiff's claim may be precluded, in whole or part, to the extent Plaintiff's damages, if any, were caused by Plaintiff's acts and/or omissions.

SIXTH AFFIRMATIVE DEFENSE

30. Plaintiff's claims may be precluded, in whole or part, to the extent Plaintiff's damages, if any, were caused by third-parties over whom Defendant had no control or authority.

SEVENTH AFFIRMATIVE DEFENSE

31. In the event that the Court determines that the Plaintiff commenced this action in bad faith, the Court should award the Defendant its attorneys' fees and reasonable costs pursuant to 15 U.S.C. §1692k(a)(3).

EIGHTH AFFIRMATIVE DEFENSE

32. To the extent Defendant's actions violated the law, such actions were the result of a bona fide error notwithstanding reasonable procedures designed to avoid such error(s).

NINTH AFFIRMATIVE DEFENSE

33. To the extent Defendant's actions violated the law, such actions were neither intentional, nor willful.

TENTH AFFIRMATIVE DEFENSE

34. Plaintiffs' claims are barred by release, waiver, unclean hands, laches, estoppel and/or res judicata.

WHEREFORE, Defendant Account Discovery Systems, LLC respectfully demands judgment against the Plaintiff dismissing the Petition in its entirety together for such other, further or different relief, not inconsistent herewith, as may be just, equitable and proper, together with the costs and disbursements of this action.

Respectfully submitted,

LOWENBAUM LAW

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COUNSEL FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that I have on this 8th day of December, 2015, served a copy of *Defendant's Answer and Affirmative Defenses* via the Court's Electronic Filing System, upon the following counsel of record:

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/s/ Matthew J. Aplington